

DEC 06 2006

REMARKS**The Obviousness-Type Double Patenting Rejection Does Not Apply to Claims 12-28**

The Office has rejected claims 12-28, at pages 2-5, paragraphs 4-6 of the Office Action, under the doctrine of obviousness-type double patenting over claims 12-19 and 31-38 of co-pending U.S. Patent Application No. 10/635,419 (the "'419 application"). Applicants respectfully traverse the rejections.

Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent. (MPEP §804(II)(B)(1)). Applicants submit that since the '419 application has not yet issued as a patent, there can be no double patenting between claims 12-28 of the present application and the claims of the '419 application. However, if the claims of the present invention are not patentably distinct from any issued claims that result from the '419 application, Applicants will file a terminal disclaimer in order to overcome any nonstatutory obviousness-type double patenting that may exist.

Further, with respect to claims 21-28 of the present application, the Office Action also does not provide any explanation of its obviousness-type double patenting rejection of claims 21-28. If any basis arises for an obviousness-type double patenting rejection between claims 21-28 of the present application and any issued claims of the '419 application, Applicants respectfully request clarification of the basis for this rejection.

Office Action Presents No Grounds for the Rejection of Claims 1-11

Although the Office Action Summary indicates that the Office has rejected claims 1-11, the Office Action does not cite any prior art against these claims, and there are no grounds for such rejection given in the Office Action. Therefore, Applicants respectfully request that claims 1-11 be allowed or that further clarification of the grounds for rejecting claims 1-11 be provided.

CONCLUSION

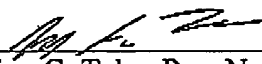
In view of the foregoing, Applicants respectfully submit that the present application is in condition for allowance and respectfully request that the Office reconsider the application and issue a Notice of Allowance for all pending claims.

If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney or agent.

Applicants do not believe that any additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date


Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicant(s)
TOLER SCHAFFER, L.L.P.
5000 Plaza On The Lake, Suite 265
Austin, Texas 78746
(512) 327-5515 (phone)
(512) 327-5575 (fax)